

ORIGINAL

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FILED

NOV 03 2015
United States Bankruptcy Court
San Jose, California

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 At SAN JOSE

13 In re

14 BONG HUYNH,

15 Debtors

16 BONG HUYNH

17 Plaintiff

18 vs.

19 ANH HUNG HUYNH and STANLEY
20 FRIEDMAN

21 Defendants
22

15-05140
Case No. 13-54164 SJ

Adversary number

ANSWER, AFFIRMATIVE
DEFENSES

23
24 ANSWER OF ANH HUNG HUYNH and STANLEY FRIEDMAN to complaint of
25 BONG for Declaratory Relief and Contempt for Willful Violation of Automatic Stay.

26 **COMMON FACTS AND JURISDICTION**

27 1. Defendants lack information or belief sufficient to form a belief as to the truth or
28 meaning of Plaintiff's allegations and on that basis denies the allegations of Paragraphs 1, 3, 6, 8,

ANSWER, AFFIRMATIVE DEFENSES

1 10,11, 12 and therefore deny each and every allegation.

2 2. Defendants admit the allegations of Paragraphs 2, and 4.

3 3. Defendants deny the allegations of Paragraphs 5, 6, 9, and 10.

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5 FIRST CAUSE OF ACTION
6 CONTEMPT FOR WILLFUL VIOLATION OF AUTOMATIC STAY

7 4. Defendants incorporate the response to the allegations of paragraphs 1 to 12 and
8 incorporate them by reference.

9 5. Defendants deny each and every allegation of paragraphs 14, 15 and 16.

10 SECOND CAUSE OF ACTION
11 DECLARATORY RELIEF

12 6. Defendants incorporate their response to the allegations of 1 through 16 and incorporate
13 them herein by reference.

14 7. Defendants deny the allegations of Paragraphs 18 and 19.

15 AFFIRMATIVE DEFENSES

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17 Defendants alleges the following affirmative defenses with respect to the purported claims
18 alleged in the complaint.

19 FIRST AFFIRMATIVE DEFENSE
20 (Failure to state a Cause of Action)

21 As a separate affirmative defense to the Complaint, and to each purported cause of action
22 thereof, Defendants alleges that the Complaint, and each purported cause of action thereof, fails to
23 state a claim against either ANH HUNG HUYNH or STANLEY FRIEDMAN, and fails to state
24 facts sufficient to constitute a cause of action against ANH HUNG HUYNH or STANLEY
25 FRIEDMAN, pursuant to Federal Rules of Civil Procedure and other applicable law, Accordingly
26 the Complaint and the causes of action asserted therein should be dismissed.
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SECOND AFFIRMATIVE DEFENSE
(No Damage)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, without admitting that the Complaint states a claim, submits that Plaintiff's claims are barred, in whole or in part, because Plaintiff has not sustained any loss, damage, harm or detriment in any amount.

THIRD AFFIRMATIVE DEFENSE
(Estoppel)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, submits that Plaintiff's claims are barred by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE
(Laches)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, submits that Plaintiff's claims are barred by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, without admitting that the Complaint states a claim, submits that Plaintiff's claims are barred, by the applicable statute of Limitations, under California Code of Civil Procedure.

SIXTH AFFIRMATIVE DEFENSE
(Unclean Hands)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, without admitting that the Complaint states a claim, submits that Plaintiff's claims are barred, in whole or in part, because of the Doctrine of Unclean Hands.

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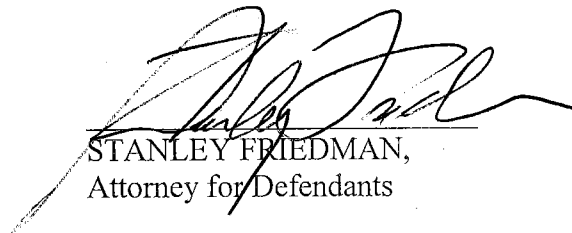
SEVENTH AFFIRMATIVE DEFENSE
(Failure to Provide Proper Notice of Stay of Proceedings)

As a separate affirmative defense to the complaint, and each purported cause of action thereof, Defendants, without admitting that the Complaint states a claim, submits that Plaintiff's claims are barred by her failure to properly notice Defendants of the NOTICE OF STAY OF PROCEEDINGS as required under California Law.

WHEREFORE, Defendants pray for relief and judgment as follows:

1. That the Court deny Plaintiff's prayer for relief in its entirety and that the Court enter Judgment in Defendants' favor.
2. That the court award Defendants their costs and expenses incurred in this action and attorneys' fees a permitted by law, and
3. That the Court award Defendants such other and further relief that it deems appropriate.

Dated: November 2, 2015


STANLEY FRIEDMAN,
Attorney for Defendants

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this adversary proceeding. My business address is:

421 South Sunnyvale Avenue
Sunnyvale, CA 94086

A true and correct copy of the foregoing document entitled : ANSWER, AFFIRMATIVE DEFENSES, was

SERVED BY UNITED STATES MAIL:

On ~~October~~ ^{November} 2, 2015, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Lars T. Fuller
The Fuller Law Firm, PC
60 North Keeble Avenue
San Jose, CA 95126

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: November 2, 2015

Charlie Sutton



Signature